

REMARKS

Favorable reconsideration is respectfully requested.

The claims are 11-14, 16 to 19 and 21-23.

The above Amendment incorporates the features of claim 20 into the remaining claims.

The significance of this will become further apparent from the remarks below.

Applicants acknowledge with appreciation the indication of allowable subject matter in claim 22. However, for the reasons set forth below, it is considered that all of the claims in this application are now in condition for allowance.

Claims 11-14, 16-21 and 23 are rejected under 35 USC § 103(a) as being unpatentable over Collet et al. in view of Effenberger et al. (US 4,859,784).

This rejection is respectfully traversed.

A brief discussion of the present invention may be seen from the Summary of the Invention in the Appeal Brief of record.

The rejection states Collet produces optically pure material with an ee of 100%. In reply, absolutely no ee-value is disclosed in the Collet reference. Collet only cites rotation-values. For example, as stated by the rejection, Collet describes that the rotation of the (+)-o-chloromandelic acid can be improved from + 57° to + 159°. But these values cannot be compared because they have been measured under different conditions. The first value has been measured at 25°C, whereas the second has been measured at 4°C. Since the temperature influences the rotation, the values cannot be compared. Furthermore, the concentration of the substance has an influence, but Collet does not teach the concentration used at the measurement leading to the value of 57°.

Further, the rejection states that Effenberger teaches the use of a large variety of solvents or their mixtures and that aromatic hydrocarbons are taught as solvents and the presaturation with water or an aqueous buffer corresponds to the instant co-solvent.

In reply, the present claims do not use water as co-solvent, but rather solvents which increase the solubility of the acid, particularly ethers and ketones. See previous claim 20 and all of the present claims. Therefore, it is not relevant that the amount of water according to Effenberger is considered to fall within the limits of claim 19.

The rejection also states that Effenberger suggests that the crude solution of cyanhydrins can be directly converted into optically active acids, for instance by hydrolysis and since aromatic hydrocarbons are taught as solvents, the instantly claimed direct recrystallization is obvious.

In reply, the hydrolysis, as is known from the state of the art and is described in the present application, is not performed in aromatic hydrocarbons but in concentrated hydrochloric acid, after removing the solvent of the previous step.

According to the present invention, the hydrolysis solution can be directly subjected to recrystallization, without isolating the acid beforehand, but hydrolysis is not performed in the aromatic hydrocarbon as discussed above.

For the above reasons , it would not have been obvious to combine the two references as suggested by the rejection.

For the foregoing reasons, it is apparent that the rejection on prior art is untenable and should be withdrawn.

No further issues remaining, allowance of this application is respectfully requested.

If the Examiner has any comments or proposals for expediting prosecution, please contact undersigned at the telephone number below.

Respectfully submitted,

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